

Application No. 10/735,652

IN THE DRAWINGS:

Please delete Figures 1-5 as originally filed with this application. Enclosed are two (2) replacement sheets for Figures 1-5, respectively, accompanied by a Letter to the Official Draftsperson. Figures 1-5 have been amended to be labeled "Prior Art."

REMARKS

Claim Rejections

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller, Jr. et al. (4,689,259), in view of Carling (2003/0068447) or Colton et al. (2001/0051230) or Hansson et al. (WO 01/47726).

Amendments to Specification

Applicant has amended the Specification as noted above to cure the typographical error noted by the Examiner. It is believed that the foregoing amendments to the Specification overcome the outstanding objections thereto. No "new matter" has been added to the original disclosure by the foregoing amendments to the Specification.

Drawings

Applicant has amended Figures 1-5, as illustrated on the attached replacement sheet, accompanied by a LETTER TO THE OFFICIAL DRAFTSPERSON. Figures 1-5 have been amended to be labeled "Prior Art." No "new matter" has been added to the original disclosure by the amendments to these figures. Entry of the corrected replacement sheets is respectfully requested.

Claim Amendments

By this Amendment, Applicant has canceled claims 2-6 and has amended claim 1 of this application to include the limitations of claims 2 and 4, as well as to better protect what Applicant regards as the invention. Claims 1 and 7 have also been amended to overcome the Examiner's objections and rejections under 35 U.S.C. §112, second paragraph, while claim 8 has been added. It is, thus, believed that the new and amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

As a preliminary matter, Applicant notes that, based on the Examiner's rejections of claim 7 (and the exclusion of claim 8 from the rejections), it is apparent that the Examiner is missing p. 14 of the specification, as filed. However, in order to speed prosecution, Applicant has chosen to remedy this problem by amending claim 7 and adding new claim 8.

The amended claims are directed toward: a coating process of aluminum oxide on the surface of a plastic floor tile comprising: a first step of preparing and placing a half-finished plastic floor tile on a feeding table; a second step of coating a first layer of UV photo-curing resin on a surface of the half-finished plastic floor tile by means of a set of spraying appliances; a third step of forming a layer of aluminum oxide sand on the first not-yet-cured layer of UV photo-curing resin; a fourth step of curing the first not-yet-cured layer of UV photo-curing resin formed in the second step with the layer of aluminum oxide sand by light shining by means of one or more UV lamps; a fifth step of forming a second layer of UV photo-curing resin on the cured layer of UV photo-curing resin by means of a coating appliance an upper surface and a lower surface of the second layer substantially conforming to each particle forming the underlying layer of aluminum oxide; a sixth step of curing the second not-yet-cured layer of UV photo-curing resin coated by light shining by means of one or more UV lamps; a seventh step of cooling the heat of the second cured layer of UV photo-curing resin by means of a heat dispersing device; an eighth step of placing and storing the finished plastic floor tile onto a receiving table, wherein an upper surface of the finished plastic floor tile is textured by protuberances resulting from the underlying layer of aluminum oxide, wherein said coating appliance is a roller, wherein said spraying appliance is a sandblast machine.

Miller, Jr. et al. teach a decorative floor covering having particles 8 which are placed on the upper surface of the tile and a translucent wear layer 14 is deposited on the particles 8. It is important to note that, as shown in Fig. 1, the translucent wear layer 14 forms a substantially uniform upper surface. In other words, the particles 8 do not form protuberances extending from the uppermost surface of the tile. As a result, the reference cannot be said to teach "an upper surface and a lower surface of the second layer substantially conforming to each particle forming the

underlying layer of aluminum oxide.” Claim 1. Nor can the reference be said to teach “an upper surface of the finished plastic floor tile is textured by protuberances resulting from the underlying layer of aluminum oxide.” Claim 1.

Colton teaches a substrate material overlaid by an anti-skid surface 10, through which particulate 14 extends therefrom. It is important to note that the particulate 14 is merely embedded in the surface 10. The reference cannot be said to teach “an upper surface and a lower surface of the second layer substantially conforming to each particle forming the underlying layer of aluminum oxide.” Claim 1. Nor can the reference be said to teach “an upper surface of the finished plastic floor tile is textured by protuberances resulting from the underlying layer of aluminum oxide.” Claim 1.

Carling is citing as teaching spraying onto tiles, while Hannson et al. is cited as teaching printing materials on substrates. Applicant does not acquiesce to these characterizations and notes that, in any event, the references fail to provide the above-noted deficiencies of Miller, Jr. et al. or Colton.

It follows that even if the teachings of Miller, Jr. et al., Colton, Carling, or Hannson et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: a coating process of aluminum oxide on the surface of a plastic floor tile comprising: a first step of preparing and placing a half-finished plastic floor tile on a feeding table; a second step of coating a first layer of UV photo-curing resin on a surface of the half-finished plastic floor tile by means of a set of spraying appliances; a third step of forming a layer of aluminum oxide sand on the first not-yet-cured layer of UV photo-curing resin; a fourth step of curing the first not-yet-cured layer of UV photo-curing resin formed in the second step with the layer of aluminum oxide sand by light shining by means of one or more UV lamps; a fifth step of forming a second layer of UV photo-curing resin on the cured layer of UV photo-curing resin by means of a coating appliance, an upper surface and a lower surface of the second layer substantially conforming to each particle forming the underlying layer of aluminum oxide; a sixth step of curing the second not-yet-cured layer of UV photo-curing resin coated by light shining by means of one or more UV lamps; a seventh step of cooling the heat of the second cured layer of UV photo-curing resin by means of a heat dispersing device; an eighth step of placing

and storing the finished plastic floor tile onto a receiving table, wherein an upper surface of the finished plastic floor tile is textured by protuberances resulting from the underlying layer of aluminum oxide, wherein said coating appliance is a roller, wherein said spraying appliance is a sandblast machine.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a

guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Miller, Jr. et al., Colton, Carling, or Hannson et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Miller, Jr. et al., Colton, Carling, nor Hannson et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed method. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new and amended claims.

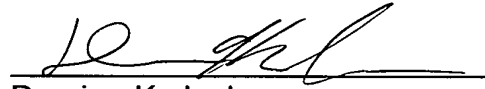
Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: November 14, 2007

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